

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



**CORRECTED
FISCAL MEMORANDUM
SB 1203 – HB 2085**

June 16, 2009

SUMMARY OF AMENDMENT (009920): Deletes the language of the original bill. Creates a new economic development program, to be administered by the Department of Economic and Community Development (ECD) in conjunction with the Department of Revenue (DOR), known as the Tennessee Small Business Investment Company Credit Act (TSBICCA). The TSBICCA authorizes an aggregate maximum of \$120,000,000 in investment tax credits, to be offset against the gross premium tax liabilities of certain insurance companies who qualify as participating investors for the purpose of serving as economic development incentives. Requires authorized tax credits be used against tax gross premiums tax liabilities for tax years 2012 through 2019.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue –

\$37,500/FY09-10/Economic and Community Development
\$25,000/FY10-11 and Subsequent Years/Economic and
Community Development

Decrease State Revenue – Net Impact

Exceeds \$5,000,000/FY13-14 through FY16-17/General Fund

Increase State Expenditures – \$190,000/Recurring

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

On June 12, 2009, a fiscal memorandum was issued for this bill as amended indicating the following estimated fiscal impact:

Increase State Revenue –

\$190,000/Economic and Community Development/Recurring

Decrease State Revenue – Net Impact

Exceeds \$5,000,000/FY11-12 through FY18-19/General Fund

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Increase State Expenditures –

\$190,000/Economic and Community Development/Recurring

Other Fiscal Impact – There may be a recurring increase of state revenue to the Rural Opportunity Fund of varying unknown amounts depending on the profitability of capital investment ventures made by participating investors and TNInvestcos. Due to multiple unknown factors, such recurring amounts cannot be reasonably quantified.

Based on additional information provided by the Department of Revenue, the fiscal impact for this bill as amended is estimated as follows:

(CORRECTED)

Increase State Revenue – Exceeds \$80,000,000/Over Time/Rural Opportunity Fund/Profit Share Distributions

Decrease State Revenue – Exceeds \$80,000,000/Over a nine-year period (FY11-12 through FY19-20)/General Fund/Tax Credits

Increase State Revenue –

\$190,000/Economic and Community Development/Recurring

Increase State Expenditures –

\$190,000/Economic and Community Development/Recurring

Assumptions applied to amendment:

- According to ECD, the Department will require one additional position to administer the program. The associated increase to recurring state expenditures is estimated to be \$70,000 per year (\$43,600 salary, \$21,400 benefits, \$5,000 other).
- According to ECD, the Department will need to contract with an experienced certified public accounting firm for auditing services to ensure program compliance. The associated increase to recurring state expenditures is estimated to be \$120,000 per year.
- The total increase to recurring state expenditures is estimated to be \$190,000 per year (\$70,000 + \$120,000 = \$190,000).
- Participating investors are required to file application with ECD and pay a one-time non-refundable application fee of \$7,500, as well as annual certification fees of \$5,000 each year (or \$10,000 if paid after April 1 of each year). In addition, and pursuant to Section 12(a) of this bill as amended, ECD will collect additional fees from any qualified Tennessee

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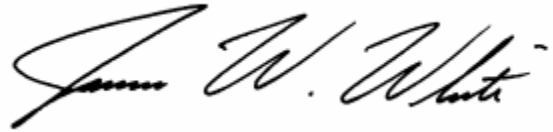
investment company (TNInvestco) for offsetting costs related to the conducting of annual reviews. ECD indicates that revenue derived from these sources is anticipated to cover expenditures incurred by the Department for implementation. Therefore, an increase to recurring state revenue estimated to be approximately \$190,000 per year.

- Determining the extent of investment tax credits that will be authorized as a result of this bill is dependent upon multiple unknown factors such as the number of qualifying insurance companies, the extent of capital investment made by each qualifying company, the extent of gross premium tax liability for each qualifying company, and whether authorization for such investment tax credits are approved by the Commissioners of ECD and DOR.
- Gross premium tax revenue is deposited to the General Fund.
- Given this extent of unknown factors, determining a precise estimate for the decrease of state revenue to the General Fund that will occur as a result of the investment tax credits is difficult. However, a significant decrease of gross premium tax revenue is anticipated for each fiscal year beginning with FY11-12 and ending with FY19-20 (a nine-year period).
- Given the aggregate maximum of investment tax credits is established at \$120,000,000, and that such tax credits are to be utilized over a nine-year period, it is estimated that gross premium tax revenue to the General Fund will decrease by at least \$80,000,000 over the entire nine-year period (from FY11-12 through FY19-20).
- Pursuant to Section 3(9) and Section 10 of this bill as amended, the state may receive distributions which are considered profit share percentage distributions. The term “profit share percentage” is defined as a fee paid to the state by a qualified TNInvestco in an amount equal to 50 percent of all distributions or payments made by the qualified TNInvestco that are not: (A) classified as qualified distributions; or (B) distributions or repayments of capital contributions by the TNInvestco’s equity owners who are not participating investors.
- Pursuant to Section 9 of the bill as amended, any such distribution made by a TNInvestco as a profit share percentage shall be deposited to the Rural Opportunity Fund to further support the state’s economic development efforts. The fiscal impact related to the profit share percentage distributions are dependent upon multiple unknown factors such as the number of qualified TNInvestco’s, the number of participating investors, the extent of capital investment made by TNInvestco’s and participating investors, and the profitability of capital investment ventures for each TNInvestco and participating investor.
- According to DOR, the capital investment ventures will produce at least a twelve percent internal rate of return.
- It is unknown when profit share percentage distributions to the state will begin, how much any distribution will be, and the total number of distributions that will occur over time. Based on historical returns in

similar tax credit programs, it is reasonable to expect the cumulative amount of profit share percentage distributions to the state will exceed \$80,000,000 over time.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "White".

James W. White, Executive Director

/rnc